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DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

A-570-020

Melamine from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

DATES: Effective date (Insert date of publication in the *Federal Register*).

SUMMARY: The Department of Commerce ("Department") preliminarily determines that melamine from the People's Republic of China ("PRC") is being, or is likely to be, sold in the United States at less than fair value ("LTFV"), as provided in section 733 of the Tariff Act of 1930, as amended ("the Act"). The period of investigation ("POI") is April 1, 2014, through September 30, 2014. The estimated margin of sales at LTFV is shown in the "Preliminary Determination" section of this notice. Interested parties are invited to comment on this preliminary determination.

FOR FURTHER INFORMATION CONTACT: James Terpstra, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-3965.

SUPPLEMENTARY INFORMATION:

The Department published the notice of initiation of this investigation on December 9, 2014.¹ Pursuant to section 733(c)(1)(A) of the Act, on March 12, 2015, the Department postponed this preliminary LTFV determination by a period of 50 days.²

Scope of the Investigation

The merchandise subject to this investigation is melamine (Chemical Abstracts Service (“CAS”) registry number 108-78-01, molecular formula $C_3H_6N_6$).³ Melamine is a crystalline powder or granule typically (but not exclusively) used to manufacture melamine formaldehyde resins. All melamine is covered by the scope of this investigation irrespective of purity, particle size, or physical form. Melamine that has been blended with other products is included within this scope when such blends include constituent parts that have been intermingled, but that have not been chemically reacted with each other to produce a different product. For such blends, only the melamine component of the mixture is covered by the scope of these investigations. Melamine that is otherwise subject to this investigation is not excluded when commingled with melamine from sources not subject to this investigation. Only the subject component of such commingled products is covered by the scope of this investigation.

The subject merchandise is provided for in subheading 2933.61.0000 of the Harmonized Tariff Schedule of the United States (“HTSUS”). Although the HTSUS subheading and CAS registry number are provided for convenience and customs purposes, the written description of the scope is dispositive.

¹ See *Melamine from the People’s Republic of China and Trinidad and Tobago: Initiation of Less-Than-Fair-Value Investigations*, 79 FR 73037 (December 9, 2014) (“Initiation Notice”).

² See *Melamine from the People’s Republic of China and Trinidad and Tobago: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 80 FR 12979 (March 12, 2015).

³ Melamine is also known as 2,4,6-triamino-s-triazine; 1,3,5-Triazine-2,4,6-triamine; Cyanurotriamide; Cyanurotriamine; Cyanuramide; and by various brand names.

Methodology

The Department is conducting this investigation in accordance with section 731 of the Act. Because the mandatory respondents⁴ in this investigation either withdrew from the proceeding or did not cooperate to the best of their ability with the Department's requests for information, the Department preliminarily determines that the application of adverse facts available ("AFA") is warranted for this preliminary determination, in accordance with section 776 of the Act and 19 CFR 351.308. As a part of the application of AFA, we are treating the mandatory respondents as part of the PRC-wide entity. Because the PRC-wide entity also failed to cooperate to the best of its ability in complying with our requests for information,⁵ we preliminarily determined an estimated weighted-average dumping margin based on adverse facts available for the PRC-wide entity, which includes the mandatory respondents.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum hereby adopted by this notice.⁶ The list of topics discussed in the Preliminary Decision Memorandum is provided as an appendix to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System ("ACCESS"). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Central Records Unit, room 7046 of the main Department of

⁴ The mandatory respondents are Allied Chemicals Inc. ("Allied Chemicals"), Xinji Jiuyuan Chemical Co. Ltd. ("Xinji Jiuyuan"), and Sichuan Golden-Elephant Sincerity Chemical Co., Ltd. ("Golden Elephant").

⁵ Specifically, the Department did not receive responses to its quantity and value questionnaire ("Q&V") from 26 companies to which the Department confirmed receipt of the Q&V. *See* Memorandum to the File, "Antidumping Duty Investigation of Melamine from the People's Republic of China: FedEx – UPS Delivery Confirmations," dated January 15, 2015.

⁶ *See* Memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance, from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, "Decision Memorandum for Preliminary Determination of the Antidumping Duty Investigation of Melamine from the People's Republic of China," dated concurrently with this notice ("Preliminary Decision Memorandum").

Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://trade.gov/enforcement/>. The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

Combination Rates

In the *Initiation Notice*, the Department stated that it would calculate combination rates for the respondents that are eligible for a separate rate in this investigation.⁷ Policy Bulletin 05.1 sets forth this practice.⁸ However, as described in the Preliminary Decision Memorandum, all parties subject to this investigation are preliminarily found to be part of the PRC-wide entity, to which we do not assign a separate combination rate.⁹

Preliminary Determination

The preliminary weighted-average antidumping duty margin percentage is as follows:

Exporter	Weighted-Average Margin (percent)
PRC-Wide Entity ¹⁰	363.31

⁷ See *Initiation Notice*, 79 at 73042.

⁸ See Enforcement and Compliance Policy Bulletin No. 05.1 “Separate-Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non-Market Economy Countries,” (April 5, 2005) (“Policy Bulletin 05.1”), available on the Department’s Web site at <http://enforcement.trade.gov/policy/bull05-1.pdf>.

⁹ *Id.*

¹⁰ The PRC-wide entity includes Allied, Xinji Jiuyuan, Golden Elephant, and Zhongyuan Dahua Group Inc., which withdrew from the investigation prior to respondent selection. The PRC-wide entity also includes 26 exporters who received a Q&V questionnaire from the Department but did not respond to the questionnaire. Those companies are: Anhui Jinhe Industrial Co., Ltd., Anhui Sunson Chemical Group Co., Ltd., Chengdu Yulong Chemical Co., Ltd., Fujian Sangang (Group), Hebei Jinglong Fengli Chemical Co., Ltd., Hefei Tianfeng Import & Export Co Ltd. China, Henan Zhongyuan Dahua Group Co., Ltd., JianFeng Chemicals, Jiangsu Heyou Group Co., Ltd., Jiangsu Sanmu Group Corporation, Kaiwei Investment Group, M and A Chemicals, Corp China, Nanjing Deju Trading Co Ltd. China, Nantong Zixin Industrial Co., Ltd., OCI Trading (Shanghai) Co., Ltd. China, Panjin Zhongrun Chemical Co., Ltd., Qingdao Shida Chemical Co., Ltd. China, Shandong Jinmei Mingshui Chemical Co., Ltd., Shandong Liahed Chemical Industry Co., Ltd., Shandong Sanhe Chemical Company Ltd., Shandong Xintai Liahed Chemical Co., Ltd., Shandong Yixing Melamine Co., Ltd., Sichuan Chemical Works Group Ltd., Sinopec Jinling Petrochemical Co., Ltd., Well Hope Enterprises Limited, and Zhejiang Fuyang Yongxing Chemical Co., Ltd..

Disclosure and Public Comment

Normally, the Department discloses to interested parties the calculations performed in connection with a preliminary determination within five days of the date of publication of the notice of preliminary determination in the *Federal Register*, in accordance with 19 CFR 351.224(b). However, because the Department preliminarily applied AFA to the mandatory respondents in this investigation, in accordance with section 776 of the Act, there are no calculations to disclose. Accordingly, the calculations performed in connection with this preliminary determination are not proprietary in nature, and are described in the Preliminary Decision Memorandum.

Interested parties are invited to comment on this preliminary determination. Interested parties may submit case briefs to the Department no later than 30 days after the date of publication of this preliminary determination.¹¹ A table of contents, list of authorities used, and an executive summary of issues should accompany any briefs submitted to the Department.¹²

Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically in ACCESS. An electronically filed document must be received successfully in its entirety in ACCESS, by 5:00 p.m. Eastern Standard Time, within 30 days after the date of publication of this notice.¹³ Hearing requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues you intend to present at the hearing. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 14th Street and Constitution Avenue,

¹¹ See 19 CFR 351.309(c)(1)(i).

¹² See 19 CFR 351.309(c)(2).

¹³ See 19 CFR 351.310(c).

NW, Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Suspension of Liquidation

In accordance with section 733(d) of the Act, the Department will instruct U.S. Customs and Border Protection (“CBP”) to suspend liquidation of all entries of melamine from the PRC, as described in the “Scope of the Investigation” section, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the *Federal Register*.

Pursuant to 19 CFR 351.205(d), the Department will instruct CBP to require a cash deposit¹⁴ equal to the weighted-average amount by which normal value (NV) exceeds U.S. price, adjusted where appropriate for export subsidies and estimated domestic subsidy pass-through,¹⁵ as follows: (1) the cash deposit rate for any exporter/producer combinations listed in the table above will be the rate the Department determines in this preliminary determination; (2) for all combinations of PRC exporters/producers of merchandise under consideration that have not received their own separate rate above, the cash-deposit rate will be the cash deposit rate established for the PRC-wide entity; and (3) for all non-PRC exporters of merchandise under consideration which have not received their own separate rate above, the cash-deposit rate will be the cash deposit rate applicable to the PRC exporter/producer combination that supplied that non-PRC exporter.

Furthermore, consistent with our practice, where the product under investigation is also subject to a concurrent countervailing duty investigation, we instruct CBP to require a cash

¹⁴ See *Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations*, 76 FR 61042 (October 3, 2011).

¹⁵ See sections 772(c)(1)(C) and 777A(f) of the Act, respectively. Unlike in administrative reviews, the Department calculates the adjustment for export subsidies in investigations not in the margin calculation program, but in the cash deposit instructions issued to CBP. See *Notice of Final Determination of Sales at Less Than Fair Value, and Negative Determination of Critical Circumstances: Certain Lined Paper Products from India*, 71 FR 45012 (August 8, 2006), and accompanying Issues and Decision Memorandum at Comment 1.

deposit equal to the amount by which the NV exceeds the export price or constructed export price, less the amount of the countervailing duty determined to constitute an export subsidy. In this LTFV investigation, with regard to PRC-wide entity, export subsidies constitute 3.28 percent¹⁶ of the preliminarily calculated countervailing duty rate in the concurrent countervailing duty investigation, and, thus, we will offset the PRC-wide rate of 363.31 percent by the countervailing duty rate attributable to export subsidies (*i.e.*, 3.28 percent) to calculate the cash deposit rate for this LTFV investigation.¹⁷ We are not adjusting the PRC-wide rate for estimated domestic subsidy pass-through because we have no basis upon which to make such an adjustment.¹⁸

International Trade Commission (“ITC”) Notification

In accordance with section 733(f) of the Act, we notified the ITC of our preliminary affirmative determination of sales at LTFV. Section 735(b)(2) of the Act requires the ITC to make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of melamine, or sales (or the likelihood of sales) for importation, of the merchandise under consideration within 45 days of our final determination.

¹⁶ The following subsidy programs in the preliminary determination of the concurrent countervailing duty investigation are export subsidies: Preferential Export Financing from the Export-Import Bank of China (1.06%), Reduced Fee Export Insurance (1.06%), Grants to Cover Legal Fees in Trade Remedy Cases (0.58%), and Cash Grants for Exports (0.58 %). *See Melamine From the People’s Republic of China: Preliminary Affirmative Countervailing Duty Determination, and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination*, 80 FR 21706 (April 20, 2015), and accompanying Preliminary Decision Memorandum at 12-13.

¹⁷ The cash deposit rate reflecting the export subsidy offset will be in effect until the countervailing duty provisional measures expire (*i.e.* 120 days after the publication of the preliminary determination of the companion countervailing duty investigation).

¹⁸ *See* Preliminary Decision Memorandum at the section, “Section 777A(f) of the Act.”

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(b)(2).

Paul Piquado
Assistant Secretary
for Enforcement and Compliance

_June 10, 2015_____

Date

List of Topics Discussed in the Preliminary Decision Memorandum:

- I. Summary
- II. Background
 - 1. Initiation
 - 2. Period of Investigation
 - 3. Postponement of Preliminary Determination
 - 4. Scope of the Investigation
 - 5. Scope Comments
 - 6. Selection of Respondents
- III. Discussion of the Methodology
 - 1. Non-Market Economy Country
 - 2. Separate Rates and the PRC-wide Entity
 - 3. Application of Facts Available and Selection Based Upon Adverse Inferences for the PRC-Wide Entity
 - 4. Corroboration of AFA Rate
 - 5. Verification
 - 6. Section 777A(f) of the Act
- IV. ITC Notification
- V. Conclusion

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